

REGULAR MEETING OF THE OKLAHOMA WORKERS' COMPENSATION COMMISSION

~ APPEALS ~

Friday, August 26, 2022
9:00 a.m.
Commission Chambers
1915 N. Stiles Ave.
Oklahoma City, Oklahoma
www.wcc.ok.gov

MINUTES

Members present: Chairman Jordan Russell, Commissioner Megan Tilly, and Commissioner Scott Biggs.

Staff present to support the Commission: Alexander Watkins, WCC; Lindsey Christopher, WCC; and Monica Pack, WCC.

STATEMENT OF OKLAHOMA OPEN MEETING LAW COMPLIANCE

Chairman Russell stated the administrative meeting was being held in compliance with the Open Meetings Act.

CALL TO ORDER **Presiding Appellate Officer, Commissioner Tilly**

Call to order 9:00 a.m. by Commissioner Tilly, Presiding Appellate Officer.

ROLL CALL **Presiding Appellate Officer, Commissioner Tilly**

After the roll call was taken, Commissioner Tilly announced the presence of a Quorum.

A. MINUTES:

- The drafted Minutes of the Regular Appeals Meeting of July 15, 2022, were considered for approval.

Motion: Commissioner Biggs made a motion to approve the Regular Appeals Meeting of July 15, 2022, minutes.

Second: Commissioner Tilly

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: MINUTES APPROVED

B. Appeal Hearings before the Commission En Banc from Orders Issued by the Commission's Administrative Law Judges

1. Derrick Hopkins v. Best Buy Co. Inc. and XL Insurance America Inc., File #CM3-2020-04456A

Respondent filed an appeal from the order issued by Administrative Law Judge Egan. Gary G. Prochaska is the attorney of record for the Claimant and Kevin D. Berry is the attorney of record for the Respondent.

Motion: After reviewing the record, hearing oral arguments, and deliberating, Commissioner Biggs moved to affirm the Administrative Law Judge's order and authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

Second: Chairman Russell

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ALJ ORDER AFFIRMED

2. Elias Solis v. MITF, File #CM3F-2019-07725A

Claimant filed an appeal from the order issued by Administrative Law Judge Blodgett. Daniel M. Davis appeared for the Claimant and Michael A. Fagan appeared for the Respondent.

Motion: After reviewing the record, hearing oral arguments, and deliberating, Commissioner Biggs moved to take this case under advisement.

Second: Chairman Russell

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: TAKEN UNDER ADVISEMENT

3. Migdalia Wakefield v. Goodyear Tire & Rubber Co. (OWN RISK), File #CM3-2020-02071A

Respondent filed an appeal from the order issued by Administrative Law Judge McMillin. Daniel M. Davis appeared for the Claimant and Mathew J. Graves appeared for the Respondent.

Motion: After reviewing the record, hearing oral arguments, and deliberating, Commissioner Biggs moved to affirm the Administrative Law Judge's order and authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

Second: Chairman Russell

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ALJ ORDER AFFIRMED

4. Norma Chavez v. Lopez Foods Inc. (OWN RISK), File #CM3A-2017-07276R

Respondent filed an appeal from the order issued by Administrative Law Judge Egan. W. Wicker and James G. Devinney appeared for the Claimant. Norman Lemonik appeared for the Respondent.

Motion: After reviewing the record, hearing oral arguments, and deliberating, Commissioner Biggs moved to take preliminary action to affirm the decision of the Administrative Law Judge's Order and instructed the law clerk or other staff member to draft a proposed order with finding of facts and conclusions of law, to be considered for continued action at a future meeting.

Second: Chairman Russell

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ALJ ORDER AFFIRMED

5. Trevor Dilorenzo v. Janzen Toyota Scion and Oklahoma Auto Dealers Sia (GROUP #75058), File #CM3-2021-01636F

Respondent filed an appeal from the order issued by Administrative Law Judge Blodgett. Daniel M. Davis appeared for the Claimant and Eric L. Tabor appeared for the Respondent.

Motion: After reviewing the record, hearing oral arguments, and deliberating, Commissioner Biggs moved to affirm the Administrative Law Judge's order and authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

Second: Chairman Russell

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ALJ ORDER AFFIRMED

6. Joan Olejua v. Lopez Food Inc. (OWN RISK), File #CM3-2021-01621Y

Claimant filed an appeal from the order issued by Administrative Law Judge McMillin. W. Jeffrey Dasovich appeared for the Claimant and Norman Lemonik appeared for the Respondent.

Motion: After reviewing the record, hearing oral arguments, and deliberating, Commissioner Biggs moved to affirm the Administrative Law Judge's order and authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

Second: Chairman Russell

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ALJ ORDER AFFIRMED

C. Commission Consideration of Adoption of Final Orders in the Following Cases:

1. Rita Morales v. Walmart Stores Inc. and Walmart Associates Inc. (OWN RISK), File #CM3-2015-07958X

Respondent filed an appeal from the order issued by Administrative Law Judge Inhofe. Susan H. Jones appeared for the Claimant and Jordan S. Ensley appeared for the Respondent.

This case came on for Oral Argument on April 29, 2022. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

Motion: Commissioner Biggs moved to adopt the order as proposed.

Second: Chairman Russell

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ORDER ADOPTED

2. Kamarrah Cunningham v. Walmart Inc. (OWN RISK), File #CM3-2020-05014R

Claimant filed an appeal from the order issued by Administrative Law Michael Egan. Robert A. Flynn is the attorney of record for the Claimant and Steve E. Hanna is the attorney of record for the Respondent.

This case came on for consideration on Respondent's Motion to Dismiss Appeal and Strike Written Argument, filed on August 18, 2022. A proposed order denying the motion was circulated to the Commissioners.

Motion: Commissioner Biggs moved to adopt the proposed order denying Respondent's Motion to Dismiss Appeal and Strike Written Argument.

Second: Chairman Russell

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ORDER ADOPTED

3. Julian Slater v. MITF, File #CM3F-2019-00356F

Respondent filed an appeal from the order issued by Administrative Law Judge Egan. Bob Burke appeared for the Claimant and Michael A. Fagan appeared for the Respondent.

This case came on for Oral Argument on May 20, 2022. After reviewing the record, hearing oral argument of counsel, and deliberating, the Chairman Russell moved to take preliminary action to affirm the decision of the Administrative Law Judge's Order and instructed the law clerk or other staff member to draft a proposed order with finding of facts and conclusions of law, to be considered for continued action at a future meeting.

Motion: Commissioner Biggs moved continue this order to the next appeals meeting.

Second: Chairman Russell

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ORDER CONTINUED

4. **Raymond Miller v. La Quinta Inn, Global Core Stillwater LLC, and Employers Preferred Insurance Co. (FKA AMCOMP PREFERRED), File #CM3-2020-00616F**

Claimant filed an appeal from the order issued by Administrative Law Judge Egan. Michael R. Green appeared for the Claimant and Kelley Bodell appeared for the Respondent.

This case came on for Oral Argument on May 20, 2022. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

Motion: Commissioner Biggs moved continue this order to the next appeals meeting.

Second: Chairman Russell

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ORDER CONTINUED

5. **Wanda Gibby v. MITF, File #CM3F-2019-07638F**

Claimant filed an appeal from the order issued by Administrative Law Judge Blodgett. J. Kord Hammert appeared for the Claimant and Michael A. Fagan appeared for the Respondent.

This case came on for Oral Argument on May 20, 2022. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

Motion: Commissioner Biggs moved continue this order to the next appeals meeting.

Second: Chairman Russell

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ORDER CONTINUED

6. Joseph Handley v. Nationwide Fixture Installation Inc. and Hanover American Insurance Co., File #CM3-2019-00808J

Both parties filed an appeal from the order issued by Administrative Law Judge Egan. Darrel Paul appeared for the Claimant and Rose M. Sloan appeared for the Respondent.

This case came on for Oral Argument on June 24, 2022. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commissioner Biggs moved to take preliminary action to affirm in-part, in regards to consequential injury, and remand in-part, in regards to intervening accident, and remand back for determination of medical treatment and instruct Appellate Counsel or staff to draft a proposed order to be considered in further deliberations and at a future Commission meeting.

Motion: Commissioner Biggs moved continue this order to the next appeals meeting.

Second: Chairman Russell

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: ORDER CONTINUED

ADJOURNMENT

Motion: Chairman Russell moved to adjourn the meeting at approximately 12:05 p.m.

Second: Commissioner Biggs.

Those Voting Aye: Chairman Russell, Commissioner Tilly, and Commissioner Biggs.

THE MOTION CARRIED: THE MEETING WAS ADJOURNED.